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March 8, 2013

WRITTEN EX PARTE

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC, 20554

**Re: In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board; Petition by Terral Telephone Company, Inc. For Waiver of 47 C.F.R. Sections 36.3, 36.123-126, 36.141, 36.152-157, 36.191 and 36.372-382 to Unfreeze Part 36 Category Relationships
CC Docket No. 80-286**

Dear Chairman Genachowski:

On August 2, 2012, Terral Telephone Company, Inc. (Terral) filed the above-captioned petition seeking a waiver of Sections 36.3, 36.123-126, 36.141, 36.152-157, 36.191 and 36.372-382 of the Commission's rules, as they relate to frozen category relationships, for the purpose of removing the category freeze from Terral. The Wireline Competition Bureau released a Public Notice requesting comment on Terral's petition by November 19, 2012 and reply comments by December 3, 2012. Accordingly, the comment cycle concerning Terral's petition is concluded and there should be no impediment to action on the petition by the Bureau.

However, on March 5, 2013, the Bureau notified Terral that it did not anticipate acting on Terral's petition in the near future. Rather, the Bureau stated that they have referred the issue of frozen allocators to the Federal-State Joint Board on Jurisdictional Separations for a more global investigation and recommendation. The Bureau indicated that it would wait for the Joint Board's global review and recommendation before addressing Terral's waiver petition. The Bureau also stated that the Joint Board has expressed interest in "taking on" this issue. Finally, the Bureau explained that although a similar waiver was granted to Eastex Telephone Cooperative, Inc., that waiver was addressed because it was pending at the Commission for over a year and was filed prior to the release of the USF/ICC Transformation Order. Terral asks the Commission to reconsider this position and to act on its waiver petition.

I am a businessman interested in providing the best possible voice and broadband service as I can to my customers. The Commission's practice of continuing to extend the frozen category relationships far beyond the initial freeze period is seriously jeopardizing my ability to do so. As shown in Terral's petition and reply comments, at the time Terral made the election to freeze the category relationships, its costs were reflective of the frozen categorical relationships. However, as a result of Terral's significant financial

investment in broadband since that time, an ever increasing disparity between Terral's costs and the recovery of those costs has occurred. Every day of inaction by the Bureau on Terral's waiver harms Terral and threatens its ability to continue to deploy broadband and to continue to provide voice service as the carrier of last resort in its service area. The purpose of Terral's waiver request is to seek exception from the Commission's rules to stop the harm caused to Terral based on its circumstance.

The harm is continuing and significant. Refusing to act on Terral's waiver pending some action by the Joint Board will significantly delay any resolution, and simply allow the harm to the company to continue. I note that the Commission asked the Joint Board to consider whether to allow carriers the opportunity to unfreeze category relationships in 2009, the state members of the Joint Board submitted a proposal to the Commission in 2010, and the Commission has never acted on that submission. This inaction only highlights the importance of the waiver process for carriers that can meet the standards for a waiver. I note that the Commission's recently filed brief before the 10th Circuit relies on the waiver process to justify its reductions in universal service support to carriers and argues that the waiver procedures "ensure that carriers that warrant additional funding have the opportunity to petition for such relief." Brief at 32. Allowing carriers to file waivers that are never acted on is not a real opportunity for relief. Terral needs relief from the frozen category rules. The waiver process is supposed to be an available mechanism for such relief.

I also do not understand the Bureau's rationale that Terral's waiver is different from the Eastex waiver because Eastex filed its waiver before the release of the USF/ICC Transformation Order and it was pending for over a year. Although the Eastex waiver was filed before the release of the USF/ICC Transformation Order, it was granted after its release and conditions were imposed on Eastex as a result of the USF/ICC Transformation Order.

The adverse impact to Terral caused by the continued application of the frozen categorical relationships to it and the threat to Terral's operations is happening now and merits prompt consideration by the Bureau. Therefore, Terral asks the Commission to reconsider its decision to delay action on Terral's waiver request until after the Joint Board performs a global review of separations.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dick R. Segress', with a stylized, flowing script.

Dick R. Segress
President

CC: Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Daniel Ball
Craig Glenn